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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,175	02/20/2001	Shigeru Fujita	024304-00000	2341
7590 01/11/2008 ARENT FOX KINTNER PLOTKIN & KAHN, PLLC Suite 600 1050 Connecticut Avenue, N.W. Washington, DC 20036-5339			EXAMINER CHANKONG, DOHM	
			ART UNIT 2152	PAPER NUMBER
			MAIL DATE 01/11/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/785,175

Applicant(s)

FUJITA, SHIGERU

Examiner

Dohm Chankong

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d), or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### DETAILED ACTION

1> This action is in response to Applicant's request for continued examination. Claim 6 is canceled. Claim 5 is amended. Claim 5 is presented for further examination.

2> This is a non-final rejection.

#### *Continued Examination Under 37 CFR 1.114*

3> A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10.26.2007 has been entered.

#### *Response to Arguments*

4> Applicant argues that "there is no 'other' POS apparatus in Watanabe that causes the master PLU table to be updated when the POS server is in a state of failure." Applicant notes that Watanabe discloses "that since the POS server apparatus has failed, the local POS server apparatus has not been updated by the first POS apparatus 200." Applicant's arguments are not found persuasive for the following reasons.

Applicant's arguments are misplaced because Applicant's claims do not require updating the server. The rejection relies on Watanabe to teach two features not found in Itakura: (1) at least one server; and (2) that the one of the clients operates as a back-up server

with regard to the rest of the plurality of clients when the at least one server goes down. It should be noted that Itakura does disclose that one of the clients operates as a back-up server to the rest of the plurality of clients [column 2 «lines 42-45»]. Watanabe discloses at least one server and that one of the clients operates as a back-up server when the server goes down [column 8 «lines 57-65» : where the first POS apparatus 200 operates as a backup when the server apparatus 100 fails by multicasting changes to the PLU data to all other POS apparatuses].

Applicant's argument that there is no POS apparatus in Watanabe updating the master PLU table in the POS server is unpersuasive because there is no limitation in the claim that requires the back-up server to update the failed server. Thus, even if Applicant's characterization of Watanabe's invention is accurate, there is little, if any, significance that Watanabe does not update the master PLU table.

Claim 5 merely requires that one of the clients, acting as a backup server, to receive and respond to requests from other clients. Itakura and Watanabe teach this and all other limitations in claim 5. See the rejection that follows.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5> Claim 5 is rejected under 35 U.S.C §103(a) as being unpatentable over Itakura et al, U.S Patent No. 6,195,645 ["Itakura"], in view of Watanabe, U.S Patent No. 6,363,354.

6> As to claim 5, Itakura discloses a distributed processing system comprising:  
at least one server [column 2 «lines 38-45» where : the master unit is analogous to a server];

a plurality of clients linked in series [Figure 1], wherein the plurality of clients are linked to the at least one server, and the at least one server collects transaction history data of the plurality of clients [column 2 «lines 38-55» : "collection of the sales data"] and performs aggregation of categories of the data collected when the server is operable [column 2 «lines 38-55» : "consolidation of the sales data"];

wherein at least one of said clients is operable in standalone fashion and has server functionality so that it executes processing of application or applications installed therein in response to requests issued by other clients and outputs the results of the processing to said clients that issued such requests [column 2 «lines 38-55»],

wherein said distributed system is a POS system [column 2 «line 38»], and

wherein said installed application is a POS application which executes at least one of product registration, product search, transaction aggregation per transaction, tax aggregation per transaction, discount per target product, designation of payment method, settlement, transaction history registration, and operator authentication and registration [column 2 «lines 46-55» | column 5 «lines 20-34»].

Itakura does not expressly disclose a server. However, Itakura's master unit is analogous to a server. Itakura also does not disclose that the one of the clients operates as a back-up server with regard to the rest of the plurality of clients when the at least one server goes down.

In the same field of invention, Watanabe is directed towards a POS system that is similar to the POS system taught by Itakura with the primary difference being that Watanabe discloses a POS server apparatus connected to the POS terminals. The POS server in Watanabe's invention provides aggregate processing capability [column 2 «lines 23-36»] and one of the clients is operable in standalone fashion and has server functionality so that it executes processing of application or applications installed therein in response to requests issued by other clients and outputs the results of the processing to said clients that issued such requests, and operates as a back-up server to the at least one server with regard to the rest of the plurality of clients [column 8 «line 55» to column 9 «line 6»]. Watanabe's first POS apparatus 200 corresponds to the one client that operates as a back-up server and updates all other apparatus in the network when the server apparatus 100 fails.

It would have been obvious to one of ordinary skill in the art to modify Itakura to include a POS server as taught by Watanabe to provide a means of storing important information such as PLU data for the POS terminals. Such a combination would have been motivated by a desire to incorporate a means of backing up and synchronizing the information already stored on the POS terminals [see Watanabe, column 8 «lines 38-54»].

Further, It would have been obvious to one of ordinary skill in the art to incorporate Watanabe's teachings into Itakura's POS system to provide a means of protecting the system

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when a server (or master client in Itakura's system) fails. One would have been further motivated to provide such a combination to insure that the system continues to operate properly if the main terminal fails in the system.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC  
1/9/08

